

IN THE UNITED STATES DISTRICT COURT

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FOR THE DISTRICT OF SOUTH CAROLINA

2005 APR 14 A 11:18

ORANGEBURG DIVISION

US
DISTRICT COURT

DIRECTV, Inc.,

Plaintiff,

v.

Mervin Ryant,

Defendant.

REPORT AND RECOMMENDATION

C.A. No.: 5:03-3902-18

This matter is before the undersigned United States Magistrate Judge in accord with 28 U.S.C. § 636 and the local rules of this court for consideration of the plaintiff's request for damages.

On April 22, 2004, based upon an affidavit of default submitted by the plaintiff, the Clerk of Court entered default as to defendant Mervin Ryant. On June 2, 2004, a hearing was held to determine the amount of damages, if any, to which the plaintiff is entitled. The defendant was given notice of the hearing, and appeared.

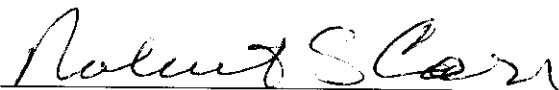
In support of its claims for damages the plaintiff presented by way of affidavit claims of \$1,301.54 in attorneys' fees, \$165.00 in costs, and \$150,000 in statutory damages in accord with 47 U.S.C. § 605 and 18 U.S.C. § 2511. Also the plaintiff submitted its claim for a permanent injunction against the defendant Mervin Ryant prohibiting the defendant from committing or assisting in the commission of any violation of the Cable Communications Policy Act of 1934, as amended, 47 U.S.C. § 605 and 18 U.S.C. § 2511.

After hearing oral arguments from both sides, Judge Robert S. Carr continued the matter to allow DIRECTV to provide documentation regarding the nature and purpose of the devices

allegedly purchased by Defendant Ryant. On April 13, 2005, a subsequent hearing was held, during which DIRECTV provided affidavits and reports sufficient to show that the devices described in DIRECTV's complaint against Defendant Ryant are, in fact, bootloaders, which are designed and used for the purpose of intercepting DIRECTV's satellite transmissions and television programming. ⁽¹⁾ At this hearing, the Plaintiff's claim was unopposed.

Accordingly, it is recommended that pursuant to Rule 54(b) of the Federal Rules of Civil Procedure this court enter its order finding the defendant Mervin Ryant in default, awarding the plaintiff judgment in the amount of \$151,466.54 and permanently enjoining the defendant from committing or assisting in the commission of any violation of 18 U.S.C. § 2511 and § 2520.

Respectfully submitted,


Robert S. Carr
United States Magistrate Judge

Charleston, South Carolina

April 13, 2005

① See affidavit of Michael Barr ~~dated~~ filed January 6, 2005 (DECK# Number 12) RSC